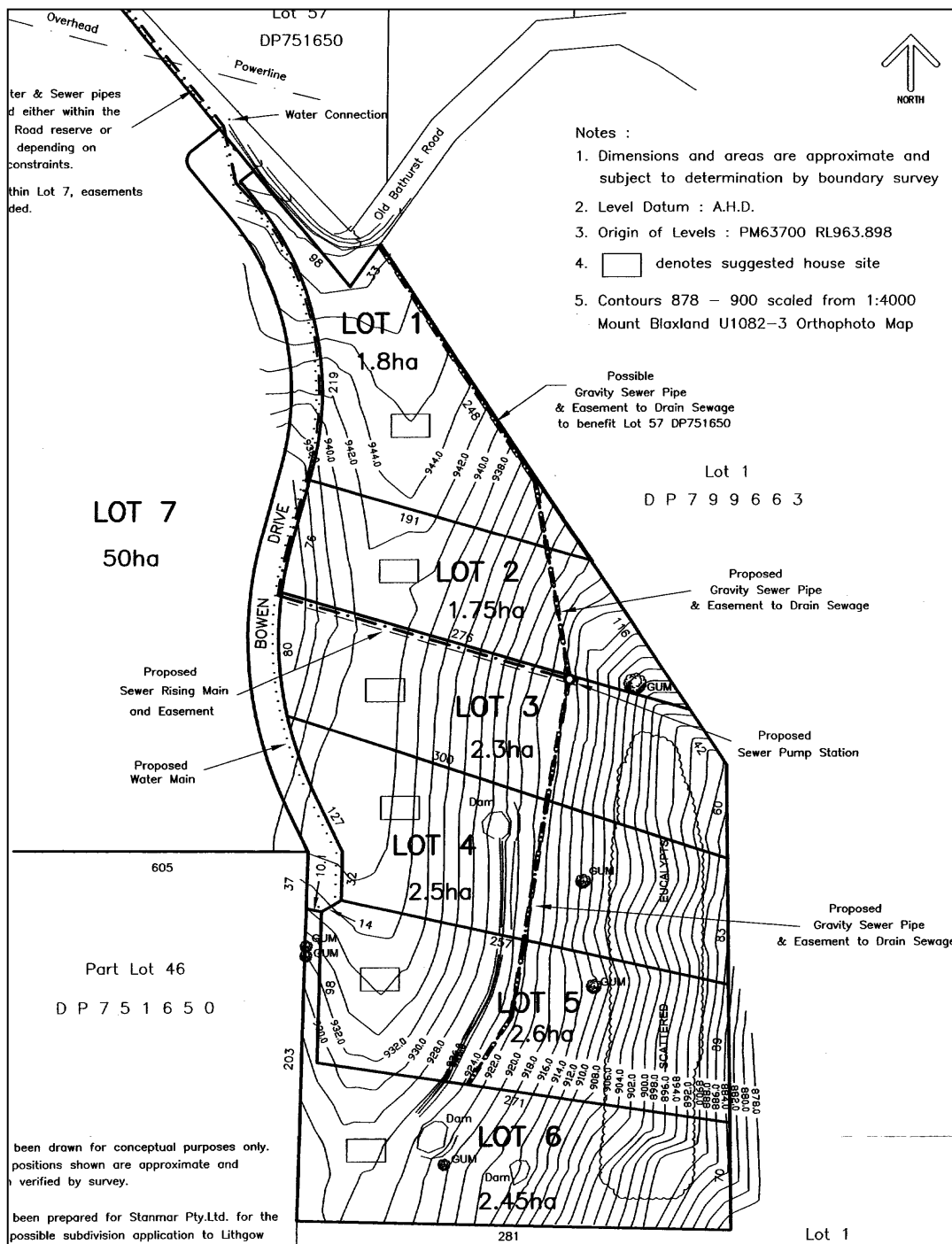


MODIFICATION OF CONSENT REPORT 061/07DA (S96028/16) – PROPOSED MODIFICATION OF CONSENT OF SUBDIVISION OF 1 LOT INTO 7, LOT 21 DP 1094386 - MAGPIE HOLLOW ROAD SOUTH BOWENFELS NSW 2790

1. PROPOSAL

Council is in receipt of a modification of development consent application to 061/07DA from Stanmar Constructions Pty Ltd, that seeks to remove the requirements for payment of Section 94 contributions for Rural Roads.

The original approval was completed under delegation on 22 July 2008 for a subdivision of one lot into 7 as per the below subdivision plan:



The application will be assessed under Section 96 1(A) of the *Environmental Planning and Assessment Act 1979*.

2. SUMMARY

To assess and recommend determination of Section 96 Modification S96028/16 of 061/07DA. Recommendation will be for approval subject to conditions

3. LOCATION OF THE PROPOSAL

Legal Description : Lot 21 DP 1094386
Property Address : 429 Magpie Hollow Road South Bowenfels NSW 2790

4. DETAILS OF CURRENT APPROVAL

The original approval was completed under delegation on 22 July 2008 for a subdivision of one lot into 7 with a new road off Old Bathurst Road.

5. PERMISSIBILITY: The permissibility of the original consent does not require assessment as part of the modification. The original application was considered permissible in accordance with the current planning instrument.

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Nil.

5.2 FINANCIAL IMPLICATIONS (eg Section 94)

Section 94 Contributions

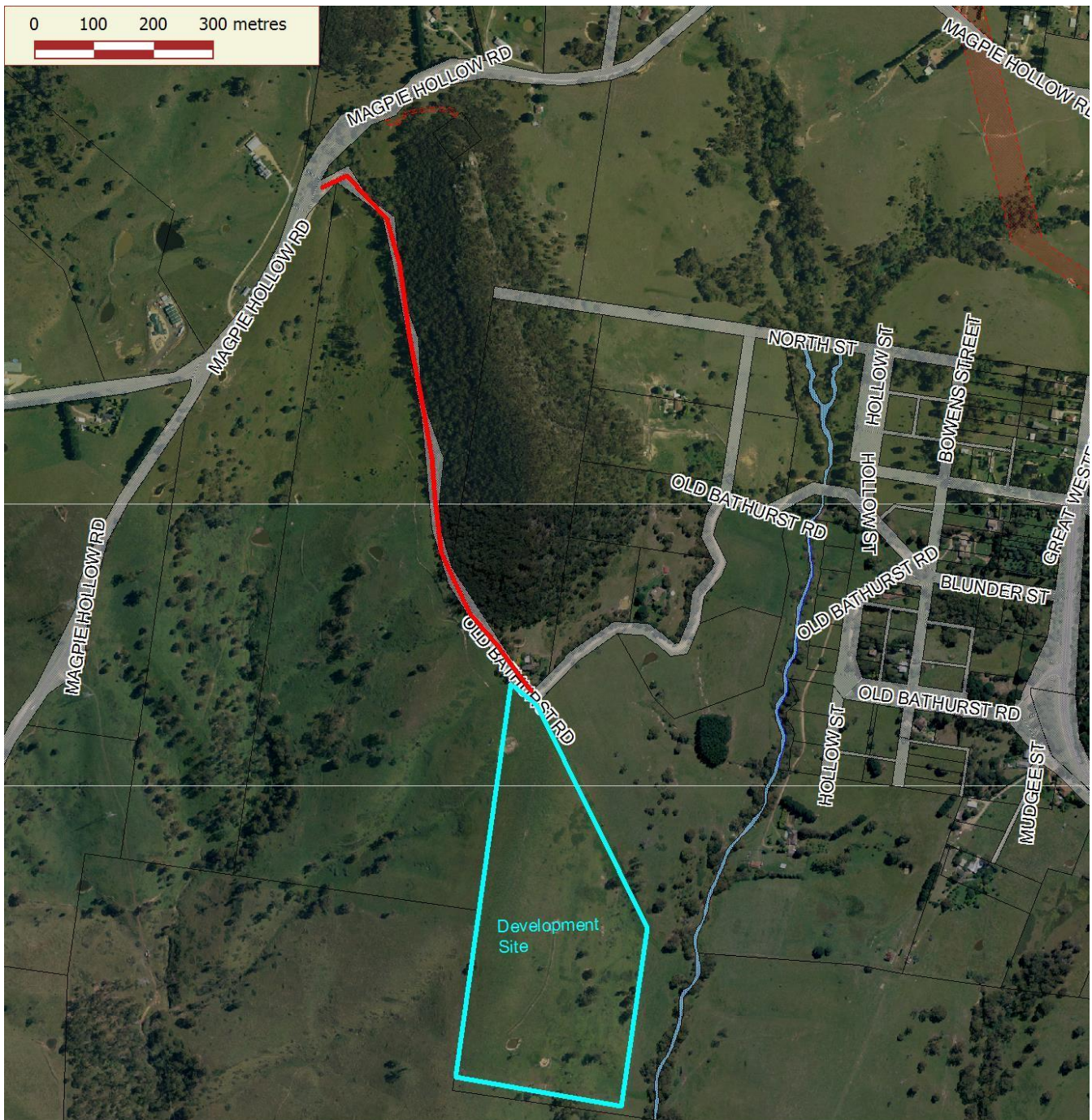
Section 94 Contributions for Rural Roads was assessed as part of the original approval in 2008 through conditions of consent as below:

53 *A contribution of \$21,000 (7*\$3000) being \$3,000 per new allotment is to be paid towards the upgrading of roads to be paid prior to the issue of the Subdivision Certificate, in accordance with Council's adopted Section 94 Contribution Plan for rural roads.*

The total contributions levied for 061/07DA was to be \$21,000.00 under Lithgow City Council Rural Roads Section 94 Contribution Plan 1998. It is requested that Council remove the condition as a result of the proposal by the applicant to seal Old Bathurst Road from Magpie Hollow Road to the new road as part of the subdivision. The sealed section is approximately 1 km in length as per map below and Council Engineers estimate the cost at over \$60,000.00.

The cost of sealing this section of Council maintained road is almost three times the amount of contributions that would have been received as part of the rural roads contributions. Sealing of this road means less ongoing maintenance is required by Council and is beneficial to the surrounding area.

Additionally, the levies as imposed under Rural Roads Section 94 Contribution Plan 1998 had not yet been allocated to certain works under these plans. The contributions would have been placed into the current Section 94A Development Contributions fund once paid, as required by the Lithgow Council Section 94A Development Contributions Plan 2015.



In conclusion, Council receives a financial benefit from the removal of the consent condition 53 as a section of Old Bathurst Road will be sealed at a value in excess of \$60,000.

5.3 LEGAL IMPLICATIONS

5.3.1 Environmental Planning and Assessment Act 1979- Section 96 (1)

- (1) **Modifications involving minor error, misdescription or miscalculation**
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5), (6) and (7) do not apply to such a modification.

Comment: Not applicable

5.3.2 Environmental Planning and Assessment Act 1979- Section 96 (1A)

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

Comment: Given that the proposed amendment is for the removal of the requirements for Section 94 contributions for rural roads, the modification is considered to be minor and does not require re-notification or re-referral. However, given Council officers cannot approve an application to waive fees under delegation, the proposal will need to be reported to a Council meeting for determination.

5.3.3 Environmental Planning and Assessment Act 1979- Section 96 (2)

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

Comment: Not applicable

5.3.4 Environmental Planning and Assessment Act 1979- Section 96 (3)

(3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

Any Environmental Planning Instruments

Lithgow City Local Environmental Plan 1994

The original application was assessed in accordance with the provisions of the Lithgow Local Environmental Plan 1994, and was found to be compliant. The modification does not require any further assessment under the LEP.

State Environmental Planning Policies

The original application was assessed in accordance with the provisions of the relevant SEPP's, and was found to be compliant. The modification does not require any further assessment under any SEPP.

Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Nil.

Any Development Control Plan

The original application was assessed in accordance with the provisions of the relevant DCP's, and was found to be compliant. The modification does not require any further assessment under any DCP.

Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?

Nil.

Any matters prescribed by the regulations that apply to the land

The original application was assessed in accordance with the provisions of the Regulations, and was found to be compliant. The modification does not require any further assessment under the Regulations.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

No additional assessment on impacts is required as part of the proposed modification given the request is for removal of Section 94 contributions for rural roads.

The Suitability of the site for the development

The original application was assessed in terms of site suitability and was found to be suitable. The modification does not require any further assessment of suitability.

Any submissions made in accordance with this Act or the Regulations

Given that the proposed amendment is for the removal of the requirements for Section 94 contributions for rural roads, the modification is considered to be minor and does not require re-notification or re-referral. However, given Council officers cannot approve an application to waive fees under delegation, the proposal will need to be reported to a Council meeting for determination.

The public interest

The original application was assessed in terms of the public interest. The proposed modification does not change whether the development is within the public interest. However, the removal of the Section 94 contributions for rural roads will not impact on the community as these fees will be sought from landowners who develop each allotment.

5.3.5 Environmental Planning and Assessment Act 1979- Section 96 (4)

(4) *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

Comment: Noted.

5.3.6 Environmental Planning and Assessment Act 1979- Section 96 (5)

(5) *Threatened species*

Development consent of the kind referred to in section 79B (3), or in respect of which a biobanking statement has been issued under Part 7A of the Threatened Species Conservation Act 1995, is not to be modified unless:

- (a) *in the case of development referred to in section 79B (3)—the requirements of section 79B (3)–(7) have been complied with in relation to the proposed modification as if the application for the proposed modification were an application for development consent, or*
- (b) *in the case of development in respect of which a biobanking statement has been issued under Part 7A of the Threatened Species Conservation Act 1995—the applicant has made an application for modification of the biobanking statement in relation to the proposal and a new biobanking statement has been issued or the consent authority is satisfied that the modification will have no impact on biodiversity values (within the meaning of that Act).*

Comment: The original application was assessed under the *Threatened Species Conservation Act 1995* and the proposed modification does not require any further assessment under the Act. There is no known threatened species affected by this proposal.

6. DISCUSSION AND CONCLUSIONS

The application has been thoroughly assessed under Section 96 1(A) of the *Environmental Planning and Assessment Act 1979* and is appropriate for recommendation of approval subject to conditions.

7. ATTACHMENTS

Schedule A- Conditions of consent.

8. RECOMMENDATION

THAT the Section 96 Modification of Consent application S96028/16 associated with 061/07DA be approved subject to the following amended conditions and outlined in Schedule A:

Removed:

- 53 **The applicant is to commit to the sealing of Old Bathurst Road from Magpie Hollow Road to the intersection of the new road of the subdivision prior to Subdivision Certificate release.** ~~A contribution of \$21,000 (7*\$3000) being \$3,000 per new allotment is to be paid towards the upgrading of roads to be paid prior to the issue of the Subdivision Certificate, in accordance with Council's adopted Section 94 Contribution Plan for rural roads.~~

Report prepared by:.....Supervisor:.....

Dated:.....Dated:.....

REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- To protect the environment.
- To ensure construction and operation of development is undertaken with minimal impact to the locality.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To provide for the on-going environmental management of the development.
- To ensure orderly development to the site.
- To facilitate the manoeuvring of vehicles.
- To ensure lots are adequately serviced.
- To maintain the amenity of the local area.
- To ensure there is no unacceptable impact on the water quality.
- To ensure compliance with the South Bowenfels Development Control Plan.
- To ensure compliance with the requirements of the Rural Fire Services.
- To ensure appropriate management of traffic.
- To ensure adequate soil conservation and protect against movement of soil and sediments.
- To ensure provisions are in place for public transportation.
- To ensure adequate provision of community and recreation facilities.

Schedule A

Conditions of Consent (Consent Authority) and General Terms of Approval (Integrated Approval Body)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

GENERAL CONDITIONS

- 1 That the applicant is to consult with Integral Energy and Telstra regarding the notification of arrangement of electricity and telephone services to each allotment. Notification of arrangement of such consultation is to be lodged with Council prior to release of the subdivision certificate.
- 2 The vehicular entry (gateway)/access that intersect bitumen roads shall have a minimum 150mm compacted road base (DGB-20) or equivalent material, and a two coat bitumen seal finish in accordance with Lithgow City Council's "Subdivision and Development Code". As required all drainage works associated with such access shall have a minimum 375 RCP or as directed and shall be inspected prior to the sealing of the access road by Council's Development Engineer.
- 3 Erosion and sediment control measures shall be provided and maintained throughout the construction period in accordance with the requirements of the manual – "Soils and Construction" (2004) (Bluebook), the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sedimentation control devices shall remain in place until the site has been stabilised and revegetated.
Note: On the spot penalties up to \$1,500 will be issued for any non-compliance with this requirement without any further notification or warning.
- 4 Works as Executed Plans (WAE) to be lodged with Council prior to release of the Linen Plans.
- 5 Developer shall supply at his/her full cost aluminium blades, minimum 150mm in width, with smooth white reflective background. Reflective material is to comply with AS 1906. Blades shall be printed with approved street name in black non-reflective writing 100mm high on both sides of blade in block type writing, as per Lettering Serious C and shall also have Council's Logo on the blades. 75mm OD galvanised iron posts and iron caps with accompanying aluminium brackets, holes for fixture to galvanised iron posts and bolts shall also be supplied. Council can arrange for the manufacture and installation of the above items, all works will be at the Developer's cost.
- 6 The applicant shall comply with all reasonable requests from Council with regard to any complaints received during the construction works.
- 7 The Developer will be responsible for the supply and erection/installation of all relevant Street signage, Traffic signage, Traffic Control, and Delineation as shown on all approved engineering Design Plans, prior to release of Maintenance Bond.

- 8 Separate metered water and connection to Councils Sewerage Reticulation is required to all residential lots, at full cost to the applicant, and designed and constructed to the satisfaction of the Manager Technical Services. The sewer design is to be compatible with the ultimate development of the area.
- 9 All appropriate easements for water, sewerage and stormwater shall be created to the satisfaction of the Manager Technical Services.
- 10 The design of the proposed roundabout shall be submitted at the Construction Certificate stage for approval by Councils Manager Operations, including a landscape plan. There shall be no features within the roundabout and all landscaping shall be a height suitable to allow good vision for traffic using the roundabout. All signage and line marking shall be at full cost to the applicant and is to be included in the design.
- 11 The new road shall be constructed to a rural, local road, with a formed width of 8 metres. The applicant shall provide to Council a Pavement Design based on the Austroads pavement design for rural roads to be approved by Council. The materials used in the road construction shall be certified by an approved NATA testing laboratory. The road design shall be submitted and approved by Council prior to any work being started.
- 12 The applicant shall develop Old Bathurst Road between the development and Magpie Hollow Road to a width of 8 metres and create a 20 metre road reserve. The applicant shall submit a pavement design and road design for the approval of Council. The Construction of Old Bathurst Road shall be according to the Subdivision and Development Code and the pavement design. Roll tests and compaction tests will be required as per the subdivision and Development Code. All costs shall be borne by the developer.
- 13 All sewer development shall be compatible to Lithgow Councils existing system and be approved by Councils Asset Manager.
- 14 Old Bathurst Road shall be widened from Magpie Hollow Road to the development and 30 metres past the roundabout to account for the increased traffic flow. The road reserve shall be a minimum of 20metres with a formation width of 8 metres and a pavement width of 6 metres. Piped culverts shall be constructed where necessary using a minimum of 375 rcp with headwalls on both ends. The spacing of the culverts shall be shown on the construction drawings to be approved by the Manager operations. A pavement design shall be submitted for approval for all roads to come under the control of Council.
- 15 Developer shall convene an on-site meeting with Council's Development Engineer to determine appropriate access locations in accordance with Lithgow City Council's "Subdivision and Development Code" requirements.

ADMINISTRATIVE CONDITIONS

- 16 That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans submitted with the application and any further information provided during the process unless otherwise amended by the following conditions.
- 17 That a Subdivision Certificate be supplied to Council for approval. This will include the submission of a plan of survey (and seven copies) substantially in accordance with the application together with an appropriate fee prior to the issue of a Subdivision Certificate.
- 18 The Council's Environment and Planning Department should be contacted to arrange the appropriate rural address numbers to be allocated to the subdivision.

TRAFFIC AND ACCESS

- 19 All development is to be constructed in accordance with Lithgow City Councils "Subdivision and Development Code" adopted by Council on the 28th of September 1992, Minute No. 1439.
- 20 Access shall have an Entry/Exit splay of no less than 6 metres to allow for safe vehicular movements.
- 21 Worked as Executed plans are to be lodged with Council prior to the release of the Linen plans.
- 22 Preparation of soil erosion and sediment control plan is to be submitted with the engineering design. Such to address both short term and long term management of all disturbed areas, and to specify methods and structures to be employed to minimize any impact. Such is to be approved by Lithgow City Council and in accordance with DNR guidelines.

ENVIRONMENTAL PROTECTION

- 23 Should any new dams be proposed on the land the developer is to be guided by the Department of Infrastructure Planning and Natural Resources' Farm Dams Assessment Guide.
- 24 Prior to the issue of the Subdivision Certificate, Council is to be provided with a report from the Upper Macquarie County Council indicating:
 - Noxious plants are under adequate management; or
 - Noxious plant management has been undertaken and adequate control measures are in place; or
 - Noxious plants are not a concern for the property.

SYDNEY CATCHMENT AUTHORITY

General

- 25 The lot layout of the subdivision is to be shown on the proposed plan of subdivision Prepared by Anderson Surveying Pty Ltd (Drawing No. 07103.DWB (DA), dated 30 July 2007). Any revised lot layout of the subdivision is to be agreed to by the Sydney Catchment Authority.

Reason for Condition 25 – The Sydney Catchment Authority has based its assessment under the Regional Environmental Plan No. 1 on this version of the subdivision.

Wastewater Management

- 26 There is to be no on-site wastewater management or effluent disposal with all dwellings on all lots to be connected to a reticulated sewerage system.

Reason for Condition 26 – To ensure that all wastewater generated on each lot is disposed of to Council's sewerage system to avoid any detrimental impact on water quality.

Sewerage Pump Station

- 27 The sewage pump station is to have a minimum emergency storage volume equivalent to 3 hours peak wet weather flow and is to include a permanent standby pump and an emergency power generation unit to ensure continuity of operation in the event of pump or power failure.

Reason for Condition 27 – To ensure that the operation and maintenance of the sewage pump station is managed in such a way so as to avoid the risk of sewage overflows and minimise the risk of water pollution on the site, in the Bowens Creek and to groundwater.

Subdivision Road, Access Ways and Stormwater Manager

- 28 All stormwater treatment and management measures are to be implemented as shown in Figure 7 and as specified in Section 5 of the Water Cycle Management Study and associated MUSIC modelling prepared by SEEC Morse McVey Pty Ltd (dated 10 October 2007), in particular as elaborated or varied in the conditions below. Any variation to stormwater management is to be agreed to by the Sydney Catchment Authority.
- 29 The subdivision road as shown on the proposed plan of subdivision (Drawing No. 07103.DWG (DA) dated 30 July 2007) prepared by Anderson Surveying Pty Ltd is to be constructed in accordance with Council's engineering standards and otherwise consistent with the guidelines Environmental Practice Manual of Rural Sealed and Unsealed Roads (ARRB Transport Research Ltd. 2002).

- 30 The crossing of the drainage depression for the construction of the subdivision road is to be a properly engineered pipe or box culvert crossing consistent with the guidelines Environmental Practice Manual of Rural Sealed and Unsealed Roads (ARRB Transport Research Ltd. 2002).
- 31 Access ways to dwelling sites are to be constructed of road-base (aggregate) and located so as to minimise cut and fill.
- 32 All drainage works including stormwater structures associated with the proposed subdivision road must be wholly included in the road reserve or within suitably defined easements.
- 33 Vegetated swales are to be provided on one side along the length of the subdivision road as shown in Figure 7 of the Water Cycle Management Study prepared by SEEC Morse McVey Pty Ltd (dated 10 October 2007) and as appropriate along the entire length of access ways with appropriately spaced cross drains, level spreaders, sills or mitre drains that divert water onto a stable surface capable of accepting concentrated water flow and which provide for efficient sediment trapping and energy dissipation. Where outlets discharge into drainage depressions or watercourses they are to be stabilised by an energy dissipater.
- 34 Runoff from the subdivision road is to be directed to a water quality pond located on proposed Lot 7 via a swale while the runoff from proposed Lots 1 to 6 is to be directed to a water quality pond located on proposed Lot 2 via a contour swale as shown in Figure 7 and specified in Sections 5.3.3 and 5.4 of the Water Cycle Management Study prepared by SEEC Morse McVey Pty Ltd (dated 10 October 2007).
- 35 Water quality ponds are to be designed as specified in Section 5.5 of the Water Cycle Management Study prepared by SEEC Morse McVey Pty Ltd (dated 10 October 2007). The ponds are to be designed to maximise flow path and retention time. Each water quality pond is to have a minimum total volume of 1400 cubic metres and a minimum permanent pool volume of 500 cubic metres. Overflow from the pond located on proposed Lot 7 is to be directed to Bowens Creek. The discharge points from both ponds are to be constructed in such a manner so as to prevent erosion or scouring.
- 36 The water quality ponds on proposed Lots 2 and 7 and all contour swales are to be protected from vehicles, by fences, slotted kerbs or equivalent structures, with appropriate signage identifying that these fenced-off areas are for water management. Access to proposed Lot 3 is to be provided to Council for monitoring, maintenance and management of the sewage pump station.
- 37 All swales associated with the subdivision road, access ways and contour swales on proposed Lots 1 to 6 are to be vegetated and stabilised with bitumen and jute matting as soon as possible after construction. In steeper areas where the slope is in excess of 8% the table drains need to be armoured with coarse gravel, cobbles or rock.

- 38 The inspection, monitoring and maintenance of stormwater management structures being swales and water quality ponds, is to be carried out as per Section 5.7 of the Water Cycle Management Study prepared by SEEC Morse McVey Pty Ltd (dated 10 October 2007) and best practice.
- 39 There is to be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over proposed Lots 1 to 6 requiring that swales are to be retained, protected and maintained and that no development is to take place within one metre of each structure.
- 40 There is to be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over proposed Lots 2 and 7 requiring that water quality ponds are to be retained, protected and maintained and that no development is to take place within one metre of each structure.

Reason for Conditions 28 to 40 – To ensure that the proposed subdivision, access ways and associated stormwater quality management systems have a sustainable neutral or beneficial impact on water quality over the longer term.

Native Vegetation and Woodland

- 41 All remnant native vegetation and regrowth areas around the Boots Creek on proposed Lot 7 is to be delineated on the approved plan of subdivision as "native vegetation" and is to be retained and protected.
- 42 The areas defined as "native vegetation" are to be fenced-off from livestock with stock proof fencing, and there is to be no livestock grazing in these fenced-off areas at any time.
- 43 There is to be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over proposed Lot 7 requiring that:
- The fences around the "native vegetation" area are to be retained and maintained.
 - No livestock grazing is to be permitted in these fenced-off areas at any time.
 - There be no clearing or harvesting of vegetation in the fenced-off "native vegetation" areas other than weed management without the written approved of the Sydney Catchment Authority.

Reason for Conditions 41 to 43 – To ensure appropriate measures are taken to offset the water quality impact of the increased intensity of the proposed development so as to have a neutral or beneficial effect on water quality and be sustainable over the long term.

Rainwater Tanks

- 44 There is to be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over all lots requiring that:
- All future buildings are to have rainwater tanks with a minimum capacity of 20,000L above any volume required for mains top-up.
 - Roofs and gutters are to be designed so as to maximise the capture of rainwater, with rainwater tanks to be plumbed to toilets, laundry and other areas for non-potable use including use for gardens.

Reason for Condition 44 – To ensure stormwater run-off from the future buildings and associated infrastructure is managed in such a way so as to have a minimal impact on water quality and can be maintained over the longer term to ensure an overall neutral or beneficial impact on water quality.

Implementation of Subdivision Conditions

- 45 Conditions 27 to 30 and 32 to 43 above are to be carried out prior to the Plan of Subdivision being certified by Council.

Reason for Condition 45 – To ensure there is an overall and sustainable neutral or beneficial impact on water quality during all phases of the proposed development.

Construction Activities

- 46 A Soil and Water Management Plan (SWMP) is required for all works proposed or required as part of the subdivision. It is to be prepared by a person with knowledge and experience in the preparation of such plans and is to incorporate the elements of Section 5.1 of the Water Cycle Management Study prepared by SEEC Morse McVey Pty Ltd (dated 10 October 2007) and meet the requirements outlined in Chapter 2 of the NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual – the "Blue Book". The SWMP is also to be to the satisfaction of Council..
- 47 Effective erosion and sediment controls are to be installed prior to any construction activity including earthworks associated with the construction of subdivision road and related works. The controls must prevent sediment entering drainage depressions, watercourses and creeks, and are to be regularly maintained and retained until works have been completed and groundcover established.

Reason for Conditions 46 and 47– To manage adverse environmental and water quality impacts during the construction stage of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.

Subsequent Development Approvals

- 48 Any subsequent applications for dwellings and/or other developments on the proposed lots will be subject to the provisions of the Drinking Water Catchments Regional Environmental Plan No. 1 and will need to be assessed according to the Neutral or Beneficial Effects test (NORBE) in relation to the potential effect of the development on water quality.
- 49 Council must provide the Authority with a copy of its determination of the application within 10 days after the determination is made. The Authority also requests that Council provide it with a copy of the final approved subdivision or synopsis plan.

RURAL FIRE SERVICE

- 50 The development proposal is to comply with the subdivision layout identified on the drawing prepared by Anderson Surveying P/L numbered 07103-3 dated 30 July 2007.
- 51 Water, electricity and gas are to comply with Section 4.1.3 of Planning for Bushfire Protection 2006.
- 52 Public road access is to comply with Section 4.1.3 (3) of Planning for Bush Fire Protection 2006.

SECTION 94 CONDITIONS

- 53 **The applicant is to commit to the sealing of Old Bathurst Road from Magpie Hollow Road to the intersection of the new road of the subdivision prior to Subdivision Certificate release.** ~~A contribution of \$21,000 (7*\$3000) being \$3,000 per new allotment is to be paid towards the upgrading of roads to be paid prior to the issue of the Subdivision Certificate, in accordance with Council's adopted Section 94 Contribution Plan for rural roads.~~
(Amended as per S96028/16 dated XX/XX/XX)
- 54 A contribution of \$1,400 (7*\$200) being \$200 per new lot being allotment is to be paid towards the provision of rural fire services to be paid prior to the issue of the Subdivision Certificate, in accordance with Council's adopted Section 94 Contribution Plan for rural fire services.

OTHER CONDITIONS

- 55 That the applicant is to consult with Integral Energy and Telstra regarding the provision of electricity and telephone services to the proposed new allotments. Confirmation of such consultation and notification of arrangement for the provision of services to the new allotments shall be lodged with Council prior to release of the subdivision certificate.
- 56 The development be conditionally approved and is to be carried out in accordance with the application and plans submitted with the application or otherwise amended by the following conditions.

- 57 All development shall be constructed in accordance with Lithgow City Council's Subdivision & Development Code" adopted by Council 28 September 1992 minute No. 1439.
- 58 All drainage work(s) associated with road, access(s) and/or Subdivisional works, are to be submitted as detailed plans to LCC Development Engineer for approval, prior to the commencement of any Civil construction as directed " Manager Engineering Operations".
- 59 All pipe work is to be standard 375mm (RCP) or as directed and is to be constructed with adjoining concrete headwalls, bonded together with concrete /grout.
- 60 Prior to including any proposed road names on the plan of subdivision the applicant shall submit options to Council for consideration and approval in accordance guidelines for the naming of roads (Geographical Names Board of NSW).
- 61 Developer shall supply at his full cost aluminium street blade(s) minimum 150mm in width, with smooth white reflective background. Reflective material is to comply with AS 1906. The street blades shall be printed with approved street name in black non-reflective writing 100mm high on both sides of blade in block type writing, as per Lettering Serious C and shall also have Council logo's on the blade(s). A 75mm OD Galvanised iron post(s) and iron cap(s) with accompanying aluminium bracket(s) holes for fixture to galvanised iron post(s) and bolts shall also be supplied. Council can arrange for the manufacture and installation of above items, all works will be at the Developers cost.
- 62 A maintenance bond of 5% of final construction cost's, to be paid to Council upon final inspection and approval of all civil works. The value of the maintenance bond shall be approved by Council after witnessing a certified copy of the contract documentation showing all civil construction costs. The Maintenance period will start from the date of final inspection for a period of 12 months. At the conclusion of the 12-month period a final inspection is to be undertaken by Council at the request of the Developer to determine if any defects have arisen during this time. All deficiencies are to be rectified by the Developer, Should outstanding works remain Council reserves the right to expend bond monies on rectification works
- 63 The road reserve to service lots 1-6 shall be a minimum 20 metres wide and carriageway width shall be a 6 meters fully sealed width. The proposed road shall be constructed to a minimum 2 - Coat Bitumen Seal with a full cul-de-sac head, minimum radius 9 meters to allow for garbage truck turning.
- 64 All access into all lots are to be sealed with two (2) coat bitumen seal from the edge of bitumen road to the property boundary.
- 65 That all Civil Construction works shall be designed in accordance with Lithgow City Council Subdivision & Development Code.

- 66 Preparation of a soil erosion and sedimentation control plans to be submitted with the engineering design. Such to address both short and long term management of all disturbed areas, and to specify methods and structures to be employed to minimize any impact.
- 67 Only those areas involved in the construction of the civil works to be disturbed, with all other areas of the site to be maintained with existing vegetation cover. Any disturbed areas outside of construction zone shall be revegetated immediately upon completion of all work.
- 68 The Developer will be required to convene an onsite meeting prior to and on completion of Civil Engineering construction works, incorporating the successful contractor. Lithgow City Council s Development Engineer, Lithgow City Councils Environmental Planner, and an officer from the Department of Natural Resouces prior to the commencement of Engineering Construction.
- 69 The Developer will be responsible for the supply and erection/installation of all relevant Street signage, Traffic signage, Traffic Control, and Delineation as shown on all approved engineering Design Plans, prior to release of Maintenance Bond.
- 70 That civil construction plans for internal access are submitted for approval for all associated with the development, by LCC Development Engineer, prior to the commencement of any construction works. This is to be completed through lodgement of a construction certificate with all plans associated with the proposed construction works to be approved by Council through the issue of a construction certificate prior to the commencement of civil works.
- 71 Soil & Water Management Plan to be submitted in conjunction with detailed Engineering Plans and approved by Councils Development Engineer prior to commencement to any construction works.
- 72 Road base material compaction testing to be undertaken by a registered N.A.T.A Laboratory at sub base and base compaction, Test results are to be submitted to LCC Development Engineer for assessment and approval prior to commencement of final surface sealing work.
- 73 The applicant shall install effective stormwater drainage at the front of the proposed allotments. This shall be addressed in such a manner to prevent and potential of overland flow waters from affecting adjoining allotments. This is to be done in consultation with Lithgow City Council.
- 74 A separate development application is to be lodged with Council for the building of a dwelling on each additional allotment created.